

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES
2 SKYLINE, 10th FLOOR
5203 LEESBURG PIKE
FALLS CHURCH, VIRGINIA 22041

AUG 11 1986

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| RUSHTON MINING COMPANY, Contestant | : | CONTEST PROCEEDING |
| v. | : | Docket No. PENN 86-217-R Citation No. 2692281; 6/23/86 |
| SECRETARY OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION (MSHA), Respondent | : | Rushton Mine |

DECISION

Appearances: Timothy M. Biddle, Esq., and Susan E. Chetlin, Esq., Crowell & Moring, Washington, D.C., for Contestant;
Robert A. Cohen, Esq., Office of the Solicitor, U.S. Department of Labor, Arlington, Virginia, for Respondent.

Before: Judge Maurer

This case is before me upon the notice of contest and motion to expedite filed by the Rushton Mining Company (Rushton) under section 105(d) of the Federal Mine Safety and Health Act of 1977, 30 U.S.C. § 801 et seq., the "Act" and Commission Rule 52, 29 C.F.R. § 2700.52, challenging the validity of Citation No. 2692281 issued pursuant to section 104(a) of the Act. A hearing was held in Pittsburgh, Pennsylvania, on July 3, 1986.

The issue in this case is whether a violation of the mandatory standard at 30 C.F.R. § 75.1400(c) existed as alleged in Citation No. 2692281. The citation, as modified, reads as follows:

The devices used to transport persons in the slope [do] not provide assurance they will act quickly and effectively in the event of an emergency in that the Sanford-Day Brakecar is the trailing car when entering the slope and the lead car when exiting the slope. [S]hould uncoupling take place the Sanford-Day Brakecar could not control or stop the other mantrip car used in conjunction with the brakecar.